

proposing regulations RULEMAKING PROCESSES

When DSA Proposes Regulations to the CBSC

DSA regulations for 'building standards' are published in the California Code of Regulations, Title 24

SUBMITTING A PROPOSED CODE CHANGE:

To request that a certain code be revised, go to the templates page on the CBSC website: http://www.bsc.ca.gov/proc_rsltn/pr_tmplts.html

Acronyms used throughout this document:

CAC – Code Advisory Committees
CBSC – California Building Standards Commission
DGS – Department of General Services
DOF – Department of Finance
DSA – Division of the State Architect
ISOR – Initial Statement of Reasons
NOPA – Notice of Proposed Action
SFM – State Fire Marshal
SOS – Secretary of State

A REQUEST FOR ADOPTION, AMENDMENT OR REPEAL REQUIRES GENERAL RULEMAKING, WHICH INVOLVES THE FOLLOWING STEPS *(steps reviewed in further detail on pages 2–4):*

All dates are approximate working days and may take longer to complete.

DSA	CBSC
Planning (6 months to 1 year)	
Draft amendments (30 – 60 days)	
State agency stakeholder review (45 – 90 days)	
Rulemaking package development (45 – 90 days)	
Stakeholders review of compiled code (30 – 60 days)	
Completion of the rulemaking package (60 – 90 days)	
Incorporates amendments	
Develops Final Statement of Reasons (FSR)	Holds public comment period (45 days)
	Schedules and holds public meeting (15 days)
	Publishes code (3 – 6 months)
	Files code with Secretary of State
	Establishes effective date (30 – 180 days)

REQUEST FOR EMERGENCY ADOPTION, AMENDMENT OR REPEAL INVOLVES THE FOLLOWING STEPS:

DSA	CBSC
Develops the Finding of Emergency	
Develops analysis justifying the approval using CBSC 9-point criteria	
Develops emergency regulations	
Submits proposed emergency to CBSC (pre-public hearing)	
	Acts on emergency regulations within 30 days
	Files emergency regulations with SOS
	Effective immediately after approved by CBSC and filed with SOS
General rulemaking process is completed within 120 days	
	Submits proposed emergency regulations to the CBSC for final approval

Steps for General Rulemaking

All dates are approximate working days and may take longer to complete.

DSA will prepare and submit to CBSC with the notice of proposed action, and CBSC will make available to the public upon request, all of the following:

1. Planning (6 months – 1 year)

- Administrative decision
- Work Plan and timeline development
- Determine DGS & Agency rulemaking requirement: Fiscal/Economic impact evaluation requirements (Form 399) and Legal impact evaluation

2. Draft Amendments (30 – 60 days)

- DSA Develops Express Terms
 - Draft regulations in plain, straightforward language
 - List specific statutes authorizing amendments
 - List specific statutes/laws being implemented, interpreted or made specific
 - Use underline or italics to indicate additions or
 - Use strikeout to indicate deletions
- DSA Develops Initial Statement of Reasons, which includes:
 - Statement of the specific purpose
 - Rationale for necessity to carry out its purpose
 - Statement of why mandate/prescriptive standards are required, if any
 - Identification of each technical, theoretical, and empirical study, report, or similar document, if any, that support adoption, amendment or repeal
 - Description of reasonable alternatives that would lessen any adverse impact on small business
 - Identify facts, evidence, documents, testimony, or other evidence supporting an initial determination that this action will not have a significant adverse economic impact on business
 - Describe efforts made to avoid duplication or conflicts with federal regulations

3. State Agency Stakeholder Review (45 – 90 days)

- DSA document management
- DSA ensures individual Agencies Advisory Boards/Committees review
- DSA ensures stakeholders review
- DSA ensures Advisory Board review
 - Identify all interested groups or persons affected by this amendment
 - Notify all interested groups and persons that building standards are to be developed
 - Maintain a listing of such groups or persons, should the CBSC request it
 - Make available draft proposal to interested groups or persons expressing interest
 - Establish a procedure to provide interested groups or persons the opportunity to advise DSA of the impact of the proposed regulations
 - Submit to the CBSC efforts made by DSA to provide public participation prior to public hearing

4. Rulemaking Package Development (45 – 90 days)

- DSA completes legal & fiscal impact assessment
- DSA completes proposed express terms & ISOR
- DSA compiles code document

5. Stakeholders Review of Compiled Code (30 – 60 days)

- DSA Document management
- CBSC Stakeholders review (CBSC managed)
- Agency review, analysis & incorporation of stakeholder comments

Steps for General Rulemaking

6. Completion of the Rulemaking Package (60 – 90 days)

- DSA completes Express Terms, ISOR, NOPA, STD. 399. Package includes:
 - A statement of the time, place, and nature of proceedings
 - Reference to the authority under which the regulations are proposed
 - A reference to the particular code sections or other provisions of law that are being implemented, interpreted, or made specific
 - An informative digest drafted in plain English in a format similar to the Legislative Counsel's digest on legislative bills, including:
 - i. A concise and clear summary of existing laws and regulations
 - ii. A brief description of differences from an existing comparable federal regulations or statute
 - iii. A policy statement overview explaining the broad objectives of the regulations and, if appropriate, the specific objectives
 - Any other matters prescribed by statute
 - A determination as to whether the regulation imposes a mandate on local agencies or school districts, and if so, whether the mandate requires state reimbursement
 - An estimate (per DOF) including:
 - i. ☐ State or federal fund cost or savings to any state agency
 - ii. ☐ Reimbursable cost or non-discretionary cost or savings
 - iii. ☐ Cost to any school district
 - Identification of the types of businesses that would be affected
 - A description of the projected reporting, record keeping, and other compliance requirements
 - Initial determination that the action may have a significant adverse economic impact on California-based businesses including ability to compete with their counterparts in other states.
 - Declaration that this rulemaking does not impact businesses
 - Description of all cost impacts, if any
 - Statement of effect on housing costs, if any
 - Statement of reasonable alternatives
 - Include contact information
- DSA obtains internal department & agency review & approval of "Notice" package
- DSA obtains DOF approval
- DSA obtains SFM approval
- DSA submits rulemaking to CBSC
- CBSC sets the schedule for the Annual Code Adoption Cycle
- CBSC schedules pre-notice technical reviews by their CAC
- CBSC CAC holds public hearings to perform a technical review of the code changes
- The location and date of a CAC meeting is noticed by CBSC
- CAC makes substantiated recommendations with a substantiating reason to either approve, disapprove, require further study, approve as amended or withdraw

7. DSA Incorporates Amendments

- DSA has an opportunity to further amend a proposed code change based on the CAC recommendations before it is resubmitted to the CBSC

8. CBSC Holds a 45 day Public Comment Period

- CBSC will forward notice to the Office of Administrative Law to be published in the California Regulatory Notice Register
- CBSC prepares an itemized monograph, including the code change submittal, the CAC recommendations and reasons; monograph is made available for public comment
- Public has opportunity to contest a CAC recommendation and/or comment on proposed changes in the monograph
- Fifteen days prior to the close of the written comment period, any member of the public may request an open public hearing through CBSC

Steps for General Rulemaking

9. DSA Develops Final Statement of Reasons (FSR)

Prepare and submit the following to CBSC with proposed regulations:

- Update of the information contained in initial statement of reasons
- A determination of whether the regulations impose a mandate on local agencies or school districts
- Summary of recommendations responding to public comments
- A determination with supporting information of alternatives considered
- Reasons for rejecting alternatives to lessen impact on small businesses
- Prepare an updated informative digest
- Resubmit to CBSC

10. CBSC Schedules and Holds Public Meeting

- CBSC schedules and holds a public meeting (15-days minimum)
- The CBSC takes an action: Approve, Disapprove, Further Study, or Approve as Amended

11. CBSC Publishes Code

- CBSC publishes amendments based on CBSC action
- CBSC sends code change to publisher
- All building standards are published in the California Code of Regulations, Title 24

12. CBSC Files Code with Secretary of State

- CBSC files code changes as approved by the CBSC with the SOS

13. CBSC Establishes Effective Date

- Administrative regulations are effective 30 days after filing with SOS
- Other regulations are effective 180 days after publication